

Maryland Board of Pharmacy

Public Board Meeting – June 19, 2002

President Ades called the Public Session of the June 19, 2002, Board meeting to order at 9:10 a.m.

Attendance:

Commissioners Present: Stanton Ades, President; John Balch; Melvin Rubin; Ramona McCarthy-Hawkins; Raymond Love; Jeanne Furman; Wayne Dyke; W. Irving Lottier, Jr.; and Barbara Faltz-Jackson

Absent: Laura Schneider; Rev. William Johnson; and Donald Yee (excused - grading exams)

Board Counsel: Paul Ballard, Assistant Attorney General; and Linda Bethman, Staff Attorney

Board Staff: LaVerne Naesea, Executive Director; James Slade, Legislative/Regulations Officer; Doris James, Licensing Supervisor; Shirley Costley, Fiscal/Personnel Officer; Joan Lawrence, Public Education Officer; Deitra Gale, Compliance Specialist; Tamarra Banks, Information Services Manager; Angela Long, Executive Secretary; and Jennifer Corwell (Governor's Summer Intern)

Guests: Howard Schiff (MPhA); Jack Freedman (DDC); Kathryn Lavriha, (Barr Labs); Howard Blumenfeld; Gil Cohen (PEAC); Vernon Thompson (DBED); Tammy Williams (DBED); Greg Danylyk; David Tsung (UMB Student); and Lucy Nguyen (UMB Student)

Introduction

President Ades asked each guest to introduce him or herself.

Recusals

There were no recusals of members due to conflicts of interest.

Corrections and Approval of Minutes (05/08/02)

Page 5, under Question to the Committee, 1st sentence should read, "*Dr. Love reported that a question was raised during the Committee meeting as to whether a pharmacist can accept verbal orders from another pharmacist acting as an agent of the prescribing physician.*"

Page 5, under Question to the Committee, under Board Action, 1st sentence should read, "*Dr. Love moved that the Board accept the opinion that a pharmacist can accept verbal order from a physician through...*"

Page 6, under Nurse Dispensing Task Force, change the name from "*Moyer*" to "*Moye*", and replace "*Health Department*" with "*Task Force*"

Page 7, under Reciprocity Processing, Board Action, delete all language except "*Mr. Dyke will research how candidates would be able to take the oral competency section of the exam in other states.*"

Board Action

Dr. Love moved for acceptance of the May 8, 2002, public meeting minutes with amendments. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

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President/Executive Committee Report

Bio-Terrorism Task Force

Pres. Ades reported that the Bio-Terrorism Task Force met on May 17, 2002, and will again meet on June 21, 2002. He mentioned that an exercise retreat for Maryland and Virginia emergency personnel was held on June 2 thru 4, 2002, in Montgomery County and that no Board members attended.

Pres. Ades reported that at the MPhA Conference in Ocean City, the agenda included a session on "Biological Chemical Terrorism." Joey Scarletta of DHMH, Melvin Rubin of the Board and Bart Regan, member of the bio-terrorism task force, were a part of the panel discussion. Mr. Scarletta presented an overview of the Board of Pharmacy's Bio-Terrorism Task Force efforts. Mr. Rubin indicated that he attended the Prince George County meeting on bio-terrorism a few months ago. He said that they are moving along very well and anticipate during a walk through in a couple of month.

The next Task Force meeting is scheduled on June 21, 2002, at 8:30am.

Shortage of Pharmacists Task Force

Pres. Ades reported that the Shortage of Pharmacists Task Force met on May 13, 2002. At that meeting, the task force decided to assign three subcommittees. One subcommittee will be defining the problem (supply/demand/need). The 2nd subcommittee will work on describing the impact of the shortage on public health and safety, economy and workplace, etc. The 3rd subcommittee will be charged with developing change solutions, and strategies (increase pharmacists/recruitment strategies/diversity/workplace changes/retention/technician support/technology and legislation, etc.). These committees will bring their reports back to the meeting on June 24, 2002.

Pharmacy Inspection Form – Update

Pres. Ades reported that the Board met with Jack Freedman, from DDC on May 10, 2002. They developed a number of questions for the survey that will be provided to pharmacists. The next meeting with the DDC is scheduled on July 9th at 3:30pm at the Board office.

Free Sales Certificates

Ms. Naesea reported that the Board voted during the December 2001 Board meeting, to cease issuing free sales certificates. The certificates were issued to manufacturers and distributors to indicate to their vendors that they were legally allowed to import/export products manufactured and distributed from Maryland. Ms. Naesea stated that the language was too broad and that upon advice from Board of Pharmacy Counsel Paul Ballard, the Board deliberated on either narrowing the language or not continuing to issue the certificates. The Board determined that they would no longer issue the certificates. Subsequently, the Sunset Review legislative analyst determined that the Board was not serving any relevant function in issuing permits to Maryland manufacturers. As a result, the Maryland legislature voted that, effective June 30, 2002, the Board would no longer issues permits to manufacturers.

Ms. Naesea stated that the vote had threatened to have a major impact on some of Maryland's licensed manufacturers. Tischen Corp., located on the Eastern Shore, expressed concerns about not having the proper documents to export their products out of the country, and had threatened to leave the state therefore possibly leaving close to 300 employees without jobs. She re-introduced the two guest presenters, Vernon Thompson and Tammy Williams, of the Department of Business and Economic Development. Ms. Naesea stated that the Board learned from its Counsel that the FDA issues free sales certificates but manufacturers stated concerns related to the extended time it takes to receive the certificates.

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Mr. Thompson stated that he was responsible for all in-state business and regulatory issues. He stated that the DBED was contacted to review Secretary Benjamin's letter to determine if it would have an impact on the state's ability to attract pharmaceutical business. Mr. Thompson reported that Tischoff and other companies were concerned about losing free sales certificate approval to get into foreign markets. He stated that his reason for appearing before the Board was to seek some possible middle ground for the interim period between now and awaiting FDA approval of free sales certificates. Mr. Thompson suggested that the Board offer Tischoff language for the certificates with which the Board would be comfortable and would also satisfy the company until the state could develop other alternatives. The Board expressed concerns that the language in the certificates requires the Board to attest to the destinations of products sold by manufacturers and to other information which the Board has no way of verifying. Mr. Thompson was asked whether other state agencies with some regulatory authority over these types of companies could issue certificates. Mr. Thompson replied that the Board has 10 years of precedence in issuing free sales certificates and is viewed as a credible agency.

Board Action

Dr. Love moved that the Board Executive Director and Board Counsel work with the appropriate individuals to issue free sales certificates in a language approved by the Executive Committee members until June 30, 2002. The motion was seconded by Ms. Faltz-Jackson and passed by the Board.

Board Elections

Pres. Ades announced that Mr. Balch and Mr. Yee were re-appointed to the Board for another four-year term, effective July 1, 2002.

Pres. Ades stated that the Board has not had an election of Board officers in a while. Currently, Mr. Ades is president; Mr. Lottier, secretary and Mr. Rubin, treasurer. The three comprise the Executive Committee that takes emergency actions when a quorum vote cannot be obtained. He announced that he will receive nominations for Board officers to serve one-year terms and that a vote will be taken at the next Board meeting. Ms. Naesea recommended that interested Board members submit nominations to her within two weeks. Ms. Naesea will also provide copies of the officer's duties to Board members.

Pres. Ades also mentioned that chairpersons for the practice, disciplinary, licensing and information & technology committees, who wish to remain in place, are welcome to do so. However, if a chairperson wants to step down or become a chairperson of one of those committees, to let him know.

Pres. Ades indicated that the Board would like to have no more than three commissioners on any one standing committee. He also mentioned that commissioners should not serve on more than three committees or task forces. It was noted that one of the two public board members should serve on all of the committees/task forces to insure consumer interests are met.

Executive Director's Report

Meeting with School of Pharmacy

Ms. Naesea reported that President Ades, Dr. Love, Dean Knapp and faculty of the University of Maryland School of Pharmacy, and she met to discuss Board and school initiatives. Dean Knapp stated that he served as chair of a national committee to review the role of pharmacy technicians and that the members recommended technicians be regulated. Specifically, that technicians minimally be registered or certified within their states. Dean Knapp and staff will provide updates in the future.

Dean Knapp announced that the number of school applications has increased due to recruitment efforts and that they are targeting a more diverse audience.

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Ms. Naesea mentioned that they discussed the shortage of pharmacist and that Dean Knapp is chair of a national committee that reported a 21% vacancy rate, nationally. The meeting concluded with both parties agreeing to resume quarterly meetings.

New Law Books

Ms. Naesea reported that the Board is working with Jeffrey Stafford of Lexis to order a revised edition of the law book. Mr. Rubin, Mr. Slade and Ms. Naesea are working to make additions to the book that would be more compatible with information included in other states' law books. It was noted that cost would be a consideration.

NABP Conference

Ms. Furman was a representative on the resolution committee at the NABP 98th annual meeting. She stated that the Committee adopted nine resolutions and that one resolution to be discussed in the next Board newsletter regards the FDA, 21CFR 1306.23, ruling that no prescription for a controlled substance listed in Schedules III or IV may be refilled more than five times, and allowances for the partial filling of such prescriptions.

Staffing Update

Ms. Naesea reported that Pres. Ades, Mr. Slade and she met with Mary Burke, Board chair of the Board of Social Work Examiner and their executive director, Harold Gordon, to negotiate having Mr. Slade full time.

Ms. Costley spoke with someone in personnel regarding the status of receiving a waiver to fill the Compliance Officer vacancy and was informed that they are awaiting Secretary Benjamin's approval.

Pres. Ades mentioned that Mr. Howard Freiman passed away. Mr. Friedman is the son of Mr. Paul Freiman, a former Board of Pharmacy commissioner and past MPhA president. Mr. Rubin and Mr. Howard Schiff attended the funeral this morning and Mr. Rubin will return for the executive Board session.

PEAC

Gil Cohen reported on behalf of PEAC. It has 33 cases; of which 8 cases were Board referred. PEAC has been attending the Disciplinary Committee meetings to improve their communication and issues related to disciplinary cases.

The PEAC Annual Retreat will be held on July 30, 2002 at Neighbor Care, 9036 Junction Drive, Annapolis Junction, MD 20701, starting 9:00am until 4:00pm. The Board and staff have been invited to attend. PEAC is also hosting their yearly CE conference on October 26, 2002, where six (6) CE credits may be earned. They are currently soliciting speakers for the conference.

PEAC's regular meeting is scheduled for next week and Mr. Rubin will represent the Board at a portion of the meeting. Mr. Cohen mentioned that PEAC contract with the Board expires March 31, 2003.

PEAC has three new committee members and is seeking more volunteers. They currently have 14 volunteers.

Legislative/Regulations Report

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Regulations Report

Fees

Mr. Slade reported that the Board's fee regulations go into effect June 10, 2002 even though the board asked for an effective date of July 1, 2002. He stated that the dates would not affect anything.

Regulations Status Report

Mr. Slade reported that the regulations status report has been updated and included in the Board packet. The Board sent a response to chain stores for the Automation regulations. The proposal will move forward without amendment.

He mentioned that he inserted a report from the Department regarding required actions from 2002 legislation session in the Board packet.

Legislation Report

House Bill 75 – Mercury and Products that contains Mercury

Mr. Slade reported that House Bill 75 "Mercury and Products that Contain Mercury" was passed during the 2001 legislative session. As of October 2002, marketers may not sell or provide a fever thermometer containing mercury to a consumer except by prescription. He indicated that "marketers" means a person who manufactures, assembles, sells, distributes, affixes a brand name or provide label to or licenses the use of a brand name on a fever thermometer containing mercury. This does not apply to hospitals, other places where medical services are provided by medical service professionals; nor digital thermometer using mercury added button cell batteries.

Committee Reports

Pharmacy Practice Committee

Patient Safety Regulations

Dr. Love reported that the Practice Committee met on June 5, 2002, to review and make changes to the Patient Safety Regulations. Mr. Slade reviewed the changes to the regulations with the Board. Dr. Love personally thanked Mr. Slade and Ms. Bethman for their work in developing the patient safety regulations.

Board Action

Dr. Love moved on behalf of the Practice Committee that the Board adopt the revision to the patient safety regulations. The motion was seconded by Ms McCarthy-Hawkins and passed by the Board.

Drug Therapy Management

Dr. Love reported that Dr. Gary Smith, from University of Maryland, Mr. Ades, Mr. Slade, Ms. Naesea and he made some substantial progress in developing recommendations for the DTM regulations. Mr. Slade provided an overview of areas developed and mentioned that next steps include reviewing the recommendations with the Board of Physicians Quality Assurance. The representatives from both boards will be meeting very soon.

Pharmacy Technician

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Dr. Love reported that at the June 6th meeting, the Committee worked extensively on pharmacy technician regulations. The Committee reviewed statute 101 to identify what changes are necessary to meet requirements before establishing the definition of a pharmacy technician. Mr. Slade will provide a summary of the changes that were made at the last meeting and present them at the next Practice Committee meeting.

The next Practice Committee meeting is scheduled on July 3, 2002, at 1:30pm.

LTC Task Force

Mr. Balch reported that the LTC task force met on June 18, 2002 to discuss its “charge” and establish ground rules. The task force developed a timeline for the year and set up monthly meeting dates. The task force will invite people who have expertise in various areas related to long-term care at future meeting to make presentations.

Nurse Dispensing Task Force

Dr. Love reported that the Board originally negotiated with the Health Department on the Declaratory Ruling that limited the drugs listed on local health departments’ formularies to those necessary for specific therapeutic categories. He stated that Board member Don Yee and Mr. Phil Weiner brought to the Board’s attention that some health departments’ formularies listed drugs that did not adhere to the limited therapeutic categories agreed upon. Dr. Love said that Ms. Naesea reported that Dr. Matuszak of DHMH reviewed the Declaratory Ruling and informed the task force that the formulary should be limited to the therapeutic categories indicated. Dr. Love thanked Ms. Naesea, Mr. Yee and Mr. Weiner for their hard work in addressing the Board’s concern.

Ms. Naesea stated that the nurse dispensing task force will ask BPQA to address the question of whether a physician employed by DHMH or a local health department may delegate dispensing authority to certain RN’s (who have completed an approved training program and have been certified to dispense medications) to prescribe medication within the approved formulary, that have been written by any authorized prescriber, including, CRNP’s, PAs, and other persons. Ms. Naesea stated that the Board’s interpretation was that it should not be allowed, however, the task force felt that it should be allowed.

Licensing Committee

Reciprocity – List of Candidates

Mr. Dyke reported that the Reciprocity meeting was held on June 18, 2002. He presented the names of candidates for licensure for reciprocity in Maryland. Sixteen (16) candidates took the examination; one (1) candidate; Mahro Ershadi, failed; and five (5) applicants; Kathleen Gaither, Khang Ho, Lana Jacoby, Christine Moore and Jignya Patel are pending passage of the oral competency exam.

Candidates - Passed

Antonio Blue	Richard DiGiovanni
Christina Dike	Gary DiPatrizio
Ruth Ebiasah	Robert Freese
Jennifer Hillman	Marci Lee
Ila Pak	William Stoehr

Board Action

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Ms. Faltz-Jackson moved to license the ten (10) candidates who passed the exam and to approve the five (5) candidates pending their meeting oral competency requirements. The motion was seconded by Ms. McCarthy-Hawkins and passed by the Board.

Wet Lab Examination

Mr. Dyke reported that the spring wet lab examination was held on June 12, & 13, 2002. There were a total of 194 candidates over the five sessions, two-day period. One (1) reinstatement exam was given. The Board moved to close the public session to discuss specific issues related to questions on the wet lab exam.

Re-Discussion of the Wet Lab Examination

The Board re-opened the public session to discuss the wet lab concerns.

The Board discussed an incident that occurred during the examination session that involved exam candidates being disrupted by other exam candidates who held open discussions during the testing in a foreign language. The Board Counsel provided the Board with legal guidance as to how to handle this matter.

Board Action

Dr. Love moved that the Board not grade the laboratory examination of the involved individuals until the Board complete an investigation and gains statements from Board proctors. The motion was seconded by Ms. Faltz-Jackson and passed by the Board.

Extensive discussion among Board members followed regarding concerns and issues related to the wet lab examination. A question was posed as to whether the Board is accomplishing anything by continuing to offer the wet lab or has the Board reached the point where the benefits of the wet lab are outweighed by the energy and costs. The Board concluded this discussion and agreed that they would delay a final decision but re-address the wet lab issue at the next Board meeting.

Public Relations Committee

Ms. Faltz-Jackson reported that the Committee met on June 12, 2002 and discussed the upcoming Flower Mart and the Board's 100th year.

Flower Mart

Ms. Faltz-Jackson stated that the Flower Mart was very successful. Ms. Lawrence reported that the Board won first prize for the best decorated booth in the health village. Approximately, 700 people visited the booth based on the number of brochures that were distributed. One hundred persons participated in Blood pressure screenings. Unfortunately, some were turned away due to lack of volunteers to perform the screenings. Ms. Lawrence acknowledged and thanked the volunteers from MSHP, MPhA, ASCP, Maryland Poison Center and the University of Maryland, School of Pharmacy. Ms. Lawrence also thanked Board member John Balch, PharmaCare, for donating a wreath to raffle for those who participated in the blood screening.

Board's 100th Year Celebration

Ms. Lawrence reported that Jennifer Corwell, Board's student intern, and she met with Karen Black, Director Public Relations Officer and J B Hanson, Deputy Director Public Relations from DHMH. Various aspects/logistics were discussed regarding how DHMH will assist the Board with implementing the planned news conference and luncheon.

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The PR Committee stated that the event should focus on the quality of health pharmacy services provided to consumers. A theme suggested was “100 Years of Ensuring Quality Pharmacy Service to the Citizens of Maryland.”

The event will be held on October 16, 2002 (Board meeting date) in the lobby of the State Office Building, 201 W. Preston Street. A meeting room has been reserved for the Board meeting. Ms. Lawrence suggested that the Public Board Meeting should be held from 9:00am until 11:00am, followed by the news conference from 11:00am to 12:00 pm and the luncheon from 12 noon to 1:00pm. The Executive Session will follow the luncheon.

Ms. Lawrence also reported that a press advisory would be sent out two days prior to the event, and a press release would be issued the day of the event. The press release will also be sent to professional magazines. It was proposed that invitations be sent to dignitaries such as the Governor, Lt. Governor, Dr. Benjamin, and the Mayor of Baltimore. Currently, Dr. Benjamin’s schedule does not allow him to attend the news conference, however, he may be able to be introduced at the Board Meeting at 9:00 am. Invitations will also be sent to consumer/community and pharmacy groups. It was also suggested that the Committee attempt to establish partnerships initiatives with AARP and the Department of Aging.

Proclamations will be requested from both the Baltimore City Mayor and Governor. Invitations and programs will be designed with the assistance of DHMH graphic department. There will be approximately 200 press kits issued consisting of an issue of the newsletter including the Board’s milestones and recognition insert.

Approximately 40-50 attendees (excluding Board members and staff) will be solicited from Board members. The speeches will outline the discussion of the Board’s past, present, and future. Ms. Lawrence requested Board members to also submit names of possible speakers and forward them to her via email.

Ms. Lawrence stated that the estimated budget for printing and the luncheon would be approximately \$15 per person. Ms. Lawrence also stated that the Board’s milestone/recognition insert would be outsourced for an estimated cost of \$500.00.

Board Action

Ms. Faltz-Jackson moved that the Board accept the PR Committee report and move forward with the planning of the 100th year celebration. The motion was seconded by Mr. Balch and passed by the Board.

Dr. Love suggested that invitations be sent out to legislators and that Ms. Lawrence and Mr. Slade coordinate this effort.

Public Relations Committee Meeting

Ms. Faltz-Jackson, P.R. Chair, announced that the P R Committee met and discussed the PR Committee structure and felt that with Ms. Lawrence working towards the goals and objectives of the Board, the P R Committee could be disbanded effective June 30, 2002. Ms. Faltz-Jackson made the following suggestions to make the transition seamless:

- 1) Discontinue the PR Committee but, maintain an Oversight Committee comprised of Board members and members of the community for special events.
- 2) The PR position, like all other Board manager positions would be responsible for managing educational and promotional activities; routine and special projects reporting directly to Ms. Naesea.
- 3) Projects involving considerable expense or requiring extensive review would be brought before the full Board.

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- 4) PR position would get Board Counsel approval when necessary.
- 5) The Oversight Committee was created to ensure community involvement with Board educational/PR activities. Membership on the committee may vary from year to year, depending upon the project and the focus for PR for that particular year, as established by the PR manager and approved by the full Board. The Oversight Committee would continue to be a committee of the Board who would meet as necessary depending upon the PR activity, but at a minimum of twice per year to discuss the prevailing issues for that year.
- 6) The PR Manager would utilize Board members for guidance and information and work closely with Board Committees on projects as they pertain to the goals/focus or objectives for that particular year.

Mr. Ades thank Ms. Faltz-Jackson for chairing the PR Committee and the accomplishments achieved.

MPhA Conference

Ms. Lawrence reported that Mr. Rubin and she attended the MPhA Conference in Ocean City, Maryland on June 14 thru 17, 2002. Mr. Rubin spoke on behalf of the Board for approximately 15 minutes. He presented different legislative bills. Responses to his presentation were positive.

Ms. Lawrence mentioned that a representative from Safeway, who attended the conference, requested 100 package of the Board's consumer brochure.

Technology and Automation Report

On Line Renewal System

Ms. Banks stated that she would be including in the Board packet a monthly IT Status Report. The IT Unit has been meeting weekly. As a result of a meeting held with Mr. Dyke to brief him on the progress of the on-line renewal; it was decided to ask MHCC to develop the establishment on-line licensing system first so that permit holders would not need to wait a year to have this service. That meeting is set for June 20, 2002. Ms. Banks stated that MHCC might be reluctant because they only have experience with on-line systems that license healthcare practitioner -- not establishments. Ms. Banks projected that if acceptable to MHCC, the establishment system would be launched at the end of October and the pharmacist system in the spring 2002.

Ms. Banks reported that a representative from MD State Archives, who is in-charge with hosting the on-line system, has retired. Mr. Konstantinov is scheduled to meet with the new person on the afternoon of the Board meeting, to finalize the Memorandum of Understanding (MOU).

Pharmacy Inspection Form Automation

Ms. Banks reported that Mr. Konstantinov met with the Division of Drug Control (DDC) IT person to review the two-part database that is being developed. The DDC IT person designed the database screen for the laptop and the Board IT personnel developed the in-house database that collects that information on the laptop. They are working on finalizing the inspection questions, and soon after the database will be completed.

Web Site

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Ms. Banks reported that the Student Intern, Ms. Jennie Corwell compiled frequently asked questions for the website by going through the Board's email from the last six months.

Shortage of Pharmacy Survey

Ms. Banks reported that the survey developed by the Shortage of Pharmacy Task Force was submitted to the Board for final review. The University of Maryland developed an Excel spreadsheet for the Board to enter the survey into the system. The survey is ready to be mailed to all pharmacists with the July newsletter and will be launched on the website at the end of June. Ms. Naesea encouraged participants at the Board meeting to complete the survey once they receive it. Ms. Lawrence mentioned that she did not receive a lot of responses from the last survey and suggested that the shortage of pharmacy survey be mailed with the pharmacist and establishment renewals.

Council of Boards

Ms. Faltz-Jackson reported that Ms. Naesea, Ms. Costley and she attended the last Council of Boards meeting at which they discussed concerns regarding the state's abolishment of Board staff vacancies.

Ms. Naesea reported that the Council of Boards decided to renew the building lease. The Maryland Health Care Commission (MHCC) mentioned that they would be leaving the building and that space has been allotted to the Department of Human Resources.

Ms. Naesea also reported that there was discussion about boards and executive directors having parking spaces and employees without parking permits paying for spaces on the Reisterstown Plaza parking lot. There also was discussion regarding increasing security in the building due to the Child Support Department having a large number of public visits.

It was asked as to whether the Board would be moving to the Montgomery Ward's building. Ms. Naesea said that majority of the Boards voted not to move.

Disciplinary Committee Report

Error Data Collection Form

Ms. Gale presented a draft error data collection form to be sent to pharmacists and permit holders to gather information needed for complaint investigations. The form will help to identify mitigating factors, pharmacy preventive measures and overall pharmacy quality assurance measures regarding dispensing errors. The form will accompany a standard cover letter and include language that will be developed jointly by the Board Counsel and Compliance Specialist. Dr. Love suggested that the form be sent to permit holders in advance so that permit holders can anticipate what type of information to keep on file. Once the form is approved, the Board suggested that it be announced in the newsletter referring readers to the new data form on the Board website. Ms. Gale thanked Ms. Furman for developing this form.

Ms. Gale asked that the Board members review and forward any comments via email.

Discussion of Applicants for Licensure

Ms. Gale asked that Mr. Ballard, Board Counsel, explain why applicants for licensure are being discussed in an open public session. Initially, Ms. Gale had these items on the executive session agenda; however, she was instructed by Board counsel to present them in the public session. Mr. Ballard explained that normally, discussion of potential disciplinary items are reserved for executive session because when the Board considers such items, the Board is acting in a "quasi-judicial function," and is thus exempt from the Open Meetings Act under State Government Article, Section 10-503(a)(1)(iii). However, Section 10-

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503(b) explicitly requires that the Open Meetings Act apply to the Board's discussion of whether to grant or deny a license. Thus, unless the Board has grounds to close the meeting under Section 10-508, the discussion of a license application must be held in open session. If the Board has grounds to close the meeting for one of the listed reasons in Section 10-508, it must vote to close the meeting for that reason, record the vote and make a public written statement of the reason for closing the meeting.

Ms. Naesea noted that the applicants' documents that were included in the Board packet were only distributed to the Board members and not the public. The contents of those documents are not required to be disclosed.

Gregory Danylyk

Ms. Gale acknowledged that Mr. Danylyk was present and explained to him that he may or may not have the opportunity to address the Board during the meeting. She reported that Mr. Danylyk had prior substance abuse related convictions; of which he had made the Board fully aware. Mr. Danylyk was seeking Board approval to further his application process. He had taken the wet lab exam, but not yet taken the NAPLEX and MPJE. Attached to the investigation report, was Mr. Danylyk's application for examination, information on his prior convictions and recently submitted handouts from PEAC. Ms. Gale explained to Mr. Danylyk that because he was not a Board referred PEAC client, he was not required to send anything at the time, but the Board would be interested in seeing his PEAC monitoring reports; which was inclusive.

The Board moved to close the public session of the meeting to discuss legal options with Board counsel then re-open public session to discuss Board's recommendations.

After deliberation, the Board requested additional information before a final decision could be rendered. The Board requested that Mr. Danylyk provide the following additional information:

- Board requires a psychiatric evaluation, which would include a substance abuse evaluation from a Board-approved psychiatrist. Ms. Gale will provide names of psychiatrists from which he may select.
- Board requires a letter of reference from the University of Maryland, School of Pharmacy, directly from Dr. Robert Beardsley, indicating that the school had prior knowledge of his substance abuse and legal problems and that Mr. Danylyk explained his legal situation to the school at the time of matriculation.
- Board requires a similar letter of reference from preceptors over at least the past 2 years.

The Board informed Mr. Danylyk that as soon as he provides the Board with this information, the Board could make a decision.

Mr. Danylyk asked if he could submit his application to sit for the NAPLEX and MPJE exams. The Board decided that they could not accept Mr. Danylyk application to sit for the exams until the Board receives all required documentation.

Howard Blumenfeld

Ms. Gale acknowledged that Mr. Blumenfeld was present. She reported that he contacted her via telephone to indicate his interest in reinstating his license. Mr. Blumenfeld was placed on probation in 1980. Ms. Blumenfeld explained to Ms. Gale that he received two consent orders at that time and had not satisfied the Board-required terms and conditions. He instead decided to leave the pharmacy profession. Ms. Gale explained to Mr. Blumenfeld that because of the time lapsed since he practiced pharmacy, current Board members would not be familiar with his case. She asked him to provide the Board with a letter or statement explaining what he had been doing in the interim, and why he wants to return to practicing

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pharmacy. Ms. Gale presented copies of Mr. Blumenfeld's consent orders, application for reinstatement, letter of events since leaving the pharmacy practice and references.

Mr. Blumenfeld presented before the Board that he was not asking for his license, but the opportunity to seek guidance to reinstate his license. The Board informed Mr. Blumenfeld that they were not in a position to place any requirements on him, however, they suggested that he follow through with his PEAC contract and proceed with the reinstatement requirements outlined in COMAR 10.34.13.03. The Board instructed Ms. Gale to send a letter to Mr. Blumenfeld, outlining the reinstatement requirements.

Question to the Board

Ms. Gale reported that the Board received a question as to whether a free standing Emergency Department, that is part of a Health System, could operate without a pharmacy permit if oversight is provided by a hospital's pharmacy. The Board requested that Ms. Gale obtain detailed information on the type of automated dispensing system they want to place in the facility. Once Ms. Gale receives this information, she was directed to forward it to Mr. Rubin and Mr. Freedman (of DDC) who can provide a response to the question.

The Public Session adjourned at 12:50 p.m.